IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(*Special Original Jurisdiction*)

TUESDAY, THE FOURTH DAY OF DECEMBER
TWO THOUSAND AND SEVEN.

P R E S E N T

THE HON'BLE SRI JUSTICE P.S. NARAYANA

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WRIT PETITION No. 20882 of 2007

Between:

Praveen Kumar Bolisetty ... Petitioner

Versus

The Govt.of India,
Represented by its Secretary,
Ministry of External Affairs,
New Delhi & Anr. ...
Respondents

Counsel for the Petitioner: SRI V. KIRAN KUMAR

Counsel for the Respondents: SRI CH. SHIVA REDDY

THE HON'BLE SRI JUSTICE P.S. NARAYANA

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WRIT PETITION No. 20882 of 2007

O R D E R :

This Court ordered notice before admission on 04-10-2007.

2. The writ petition is filed for a writ of mandamus, declaring the action of the respondent no.2 in not issuing the fresh passport to the petitioner as illegal, arbitrary and unconstitutional and consequently to direct the respondent no.2 to consider the application for issuance of passport by accepting SSC certificate and other documents produced by the petitioner as the proof of his date of birth and to pas such other suitable order as this Court deems fit and proper in the interest of justice.

3. It is stated that the petitioner was a minor when the parents applied for issuance of a passport and the said application was considered and the respondent no.2 accordingly issued a passport. The said passport was valid upto the year 2006.

4. Further it is stated that in the said passport the date of birth was wrongly mentioned and due to oversight of his parents, they could not have rectified the said date of birth by making necessary applications. As the petitioner had not produced the said passport anywhere during its validity the said mistake had not given any effect on his studies or other avocations.

5. It is stated that the petitioner had been preparing to pursue his higher studies in abroad and as the old passport was expired, the petitioner had applied for a new passport by surrendering the old passport. Along with the application, the petitioner also produced his memorandum of marks issued by the Board of Secondary School Education, Driving License issued by the Regional Transport Officer and the PAN Card issued by the Income-tax Department.

6. It is further stated that all the said certificates produced by the petitioner reveal that his date of birth as 12-01-1983. The respondent no.2 had returned his application asking him to clarify the discrepancy of his date of birth. Immediately the petitioner had rushed to his birth place and applied for his date of birth certificate but after search of records, the Registrar of Births and Deaths issued a certificate stating that the details of his birth was not available in the records.

7. It is further stated that along with the said certificate issued by the Registrar of Births and Deaths, the petitioner tried to re-submit his returned passport application but the respondent no.2 has refused to receive the re-submitted application stating that there is no substantial proof of his date of birth. It is pertinent to mention that the driving license and the PAN card were issued by considering his

memorandum of marks certificate issued by the Board of Secondary School Education and that being the case his application for issuance of passport is also deserved to be considered by relying upon the said SSC certificate.

8. It is further stated that as the Registrar of Births and Deaths have issued a non-availability certificate, the said documents produced by him are to be considered by accepting his clarification with regard to the discrepancy of his date of birth. Not accepting the re-submitted application by the respondent no.2 is arbitrary, uncalled for and unconstitutional and this Court may is pleased to direct the respondent no.2 to consider his application for issuance of passport by accepting SSC certificate and other documents produced by him, as the proof of his date of birth or else, the petitioner will be put to great loss and injury.

9. In such circumstances, it is stated that the petitioner is left with no other option except approaching this court praying for the appropriate reliefs as specified supra.

10. This Court in **Mohd. Nasrullah Khan** V. **Regional Passport Officer, Hyderabad**[1] it was held thus:

> "In Ali Imran V. Regional Passport Officer, Secunderabad, I have considered the Circular dated 18.4.2001 issued by the Government of India in the Ministry of External Affairs pursuant to the judgment

of the High Court of Judicature at Bombay in Civil Writ Petition No.1072 of 2000. The instructions/clarifications issued in the said Circular read as under.

(a) *Where an applicant is seeking rectification/correction of a mistake in the entry on date of birth/place of birth in the passport, PIA (passport issuing authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.*

(b) *Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act, 1997, a competent authority issuing a certificate could also make necessary amendments to the same.*

(c) *Where the initial entry has been made on the basis of a supportive document issued by one competent authority i.e., school/educational authority and the applicant subsequently requests for a change on the basis of a certificate issued by another competent authority i.e., municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent court of jurisdiction, certifying the valid date of birth/place of birth*.

In view of the above clarifications, I disposed of the said case

observing as under:

Be it noted that under the provisions of the Passports Act, 1967, no power is vested in the Regional Passport Officer to correct entries in the passport. However, pursuant to the judgment of the High Court of Bombay referred to hereinabove, it is now permissible for the Regional Passport Officer to accept applications for rectification/correction. Nonetheless, as per clause (c) above, if an entry had been made on the basis of a supportive document issued by one authority i.e., school or educational authority and subsequently the applicant requests for a change of the entry on the basis of the certificate issued by another authority the passport issuing authority is required to direct the applicant to obtain a proper declaration from the civil Court.

In this case, the petitioner has produced Secondary School Certificate to prove that his correct date of birth is 1-4-1976. Therefore, the claim of the petitioner is well supported and squarely falls in Clause (a) of the Circular dt. 18.4.2001."

11. In **Durgempudi Venkata Raghava** V. **Passport Officer**, **Ministry of External Affairs**, **Passport Office**, **Hyderabad**[2] it was held as hereunder :

"Placing reliance on the clarification issued on the aforesaid Circular, Writ Petition No.8533 of 2004 was disposed of directing the respondents to consider the representation of the petitioner along with the Secondary School Certificate issued by Secretary, Board of Secondary Education, Andhra Pradesh and pass appropriate orders in the light of the observations made in the said judgment.

It is no doubt true that the present Writ Petition was filed in

the year 1997 and the Government under Ministry of External Affairs issued the Circular referred to supra on 18.4.2001. As can be seen from the material available on record, the certificates, which had been produced before this Court, it is clear that it is only a bona fide mistake, which had crept in.

Apart from this aspect of the matter, no counter-affidavit had been filed denying the specific averment made in the affidavit filed in support of Writ Petition that along with the application form for passport, the Travel Agent also enclosed copies of S.S.C. certificate, Intermediate certificate and also Degree certificate. Therefore, it is evident that without verifying the date of birth, the respondent authority just took the date of birth as filled up in the application form and issued the passport. Hence, it is needless to say that it is only a bona fide mistake.

The learned Senior Standing Counsel for Central Government, no doubt submitted that in such a situation, if the passport was issued prior to the said circular it would be proper to give an opportunity to the Writ Petitioner to file fresh application for issuance of passport to the competent authority.

In the light of the facts and circumstances, especially in view of Clause (a) of the Circular, dated 18.4.2001 referred to supra and also in view of the fact that all these copies of documents also had been produced at the time of filing of the application form but a bona fide mistake had crept in, the Writ Petition is disposed of with the following directions."

12. In the light of the circular referred to supra and also the decisions specified supra, the action of the respondent is not justified. In view of the same, the writ petition is disposed of directing the respondent no.2 to entertain the application of the petitioner for correction of correct date of birth in the light of the facts and

circumstances and also pass appropriate orders in the light of the circulars referred to supra and also the views expressed by this Court in the decisions referred to supra, within four weeks, from the date of receipt of a copy of this order.

9. The writ petition is disposed of at the stage of admission. No costs.

JUSTICE P . S . NARAYANA .

04/12/2007.

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[1] 2005(1) ALT 95

[2] 2005 (1) ALT 751